

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALVIN L. HINTZ, JR.,)	
)	
Plaintiff,)	
)	
)	No. 08-C-1444
THE PRUDENTIAL INSURANCE)	Judge Dow, Jr.
COMPANY OF AMERICA)	
)	Magistrate Judge Valdez
Defendant.)	

**PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE TO MOTION TO
EXTEND DISCOVERY DEADLINE**

Plaintiff Alvin Hintz (“Plaintiff”) by and through his undersigned attorney, hereby replies to Defendant’s Response to Plaintiff’s Motion to Extend Discovery Deadline (“Def.’s Resp”). In support of his reply, Plaintiff states:

1. On July 18, 2008, Plaintiff filed a motion to extend the discovery deadline, which had been set in this matter by a joint proposed case management plan filed by Plaintiff’s counsel and Defendant’s previous counsel, on May 1, 2008.
2. In the joint case management plan, previous Defense counsel made clear that it was challenging the standard of review applicable to this case, contending that this action is subject to an arbitrary and capricious standard of review.
3. Within one week of receiving the administrative claim file from Defendant, Plaintiff served Discovery Requests. These requests were drafted in consideration of Defense counsel’s stance regarding the standard of review, and were therefore aimed at ferreting out any possible conflict of interest under which Defendant may have made its benefit determination.

4. However, on July 18, 2008, new Defense counsel responded to Plaintiff's motion to extend the discovery deadline, expressly recognizing that this action will be reviewed under the *de novo* standard, stating “[a]s here, the *de novo* standard of review already applies and the Court will give no deference to Prudential's decision to terminate Plaintiff's claim for LTD benefits, any conflict of interest or its effect on the administrator's decision making process no longer matters.” (Def.'s Resp. at 7).

5. As such, although Plaintiff believes he is entitled to discovery, he will not further burden the Court's time with regard to such discovery requests.

6. Therefore, in acknowledgment that application of the *de novo* standard of review is no longer being contested, Plaintiff will withdraw his July 18, 2008 motion to extend the discovery deadline; and accordingly, no appearance will be necessary for this motion.

WHEREFORE, Plaintiff respectfully moves this Honorable Court allow him leave to withdraw his Motion to Extend Discovery Deadline.

Respectfully Submitted:

ALVIN L. HINTZ JR., Plaintiff, by

s/ Marcie E. Goldbloom
Marcie E. Goldbloom
Attorney for Plaintiff
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CERTIFICATE OF SERVICE

TO: Rebecca M. Rothmann
Edna S. Bailey
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(312) 704-0550
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The undersigned attorney hereby certifies that on July 21, 2008, she electronically filed the foregoing PLAINTIFF'S REPLY TO DEFENDANT'S REPSONSE TO MOTION TO EXTEND DISCOVERY DEADLINE with the Clerk of the Court using the CMF/ECF filing system, which sent notice of such filing to: Rebecca Rothmann and Edna Bailey, and that I hereby certify that I have mailed via the United States Postal Service the document to the following non-CMF/ECF participants: N/A

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s/ Marcie E. Goldbloom
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